

EXHIBIT H

From: Phillip Young <phillip@thompsonburton.com>
Sent: Fri, 09 Apr 2021 13:21:57 +0000
To: McMichael, Lawrence G.
CC: Hughes, Peter C.
Subject: Re: DSI Adversary Proceeding

Eva and I have discussed. The only other significant claim (beyond ours) is that of MPT. If we can convince MPT to just take through our bankruptcy (where they hold \$75M of the \$100M in claims), then the subordination is a non-issue. We think their claim in the DE bankruptcy is duplicative of, and included in, their TN bankruptcy claim so we think this might be a fairly easy conversation. In other words, there may be a simple line between Point A and Point B.

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On Apr 9, 2021, at 7:32 AM, McMichael, Lawrence G. <lmcmichael@dilworthlaw.com> wrote:

Great. Pete is looking at the issue and he can coordinate a time for a call or zoom on Monday. Afternoon is best for me.

Sent from my iPhone

On Apr 9, 2021, at 8:21 AM, Phillip Young <phillip@thompsonburton.com> wrote:

I will call you Monday to discuss

Phillip

On Apr 9, 2021, at 7:12 AM, McMichael, Lawrence G. <lmcmichael@dilworthlaw.com> wrote:

Phil: We should try to use this request to resolve the subordination issue (due to the late filed claim) with the DVI trustee who is making this request of us.

Sent from my iPhone

On Apr 9, 2021, at 7:47 AM, Phillip Young <phillip@thompsonburton.com> wrote:

Trustee Eva Lemeh will comply. Should we draft something or is DSI's counsel?

Phillip

> On Apr 9, 2021, at 6:10 AM, Steven Coren <SCoren@kcr-law.com> wrote:

>

> Dear Counsel:

>

> I have attached a copy of the DSI Settlement Agreement.

>

> Section 4.2 of the Settlement Agreement provides in material part as follows:

>

> 4.2. Creditor Releases. The Trustee (on behalf of himself and his counsel) agrees that

> he shall use reasonable best efforts and act in good faith to propose to, and encourage, and obtain

> from each of the Tennessee Bankruptcy Trustee (on behalf of herself, Bucks County Oncoplastic

> Institute, LLC, and its estate) and MPT (on behalf of itself and each of its affiliates, subsidiaries,

> parents, successors, and assigns and for each of the foregoing, each of their respective officers,

> directors, agents, employees, attorneys, professionals and insurers, (in their capacities as such))

> an agreement with Defendants (for their benefit and for the benefit of the Defendant Released

> Parties) granting mutual releases and covenants not to sue in connection with: (i) any and all

> claims that have been or could have been brought by the Trustee in the Adversary Proceeding;

> and (ii) any and all claims arising out of or in connection with the DSI Restructuring, the DaVita

> Merger Transaction, the DSI Bankruptcy Cases, and the relationship of any of Defendants and

> the Defendant Released Parties' relationships with any of the Debtors in the DSI Bankruptcy

> Cases or the bankruptcy of Bucks County Oncoplastic Institute, LLC. The Trustee shall further

> inform Defendants, upon request, regarding the status of his efforts. ...

>

> On behalf of the Trustee Giuliano and his counsel, I strongly encourage Trustee Lemeh and MPT to enter into an agreement with the Defendants containing the mutual releases set forth in Section 4.2 (the "Creditor Releases").

>

> Simply stated, it is our considered view that the granting of the Creditor Releases is in the best interests of Trustee Lemeh, MPT and the DSI Bankruptcy Estates because, among other reasons:

(1) it will facilitate closure of the 10-year, hotly contested dispute arising out of the DSI

Restructuring and DaVita Merger Transaction; (2) it will facilitate the administration of Trustee Lemeh's bankruptcy case and the payment of creditor claims in that bankruptcy; (3) it will bring closure to the disputes between Defendants on the one hand and Trustee Lemeh and MPT on the other; and, (4) it will expedite the administration of the DSI Bankruptcy Cases and the payment of creditor claims in those cases, including those of Trustee Lemeh and MPT.

>

> We further believe that the scope of the proposed Creditor Releases is fair to all concerned-i.e., Defendants, Trustee Lemeh and MPT-and that the releases provide a significant benefit to Trustee Lemeh and MPT, with no practical downside whatsoever.

>

> Please confirm as promptly as possible that your clients will provide the Creditor Releases and I will help facilitate the documentation process.

>

> Of course, the Trustee and I are available to answer any questions and discuss the matter at your request.

>

> Regards,

>

> STEVEN

>

>

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